



January 23, 2009

Mr. Charles Terreni  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
101 Executive Drive  
Columbia, SC 29210

RE: Docket No. 2008-251-E

Dear Mr. Terreni:

Please accept this letter as notification that Progress Energy Carolinas, Inc. ("PEC"), the Office of Regulatory Staff, Wal-Mart Stores East, LP, and Nucor Steel-South Carolina have entered into a Stipulation Agreement with regard to all issues involved in this proceeding. The Stipulation Agreement is attached hereto. These parties jointly move the Commission to schedule a settlement hearing to be held on February 12, 2009 at 10:30 a.m. in conjunction with the evidentiary hearing previously scheduled for this same date and time. The Stipulation Agreement completely addresses all issues involved in PEC's request to establish a demand-side management and energy efficiency ("DSM/EE") cost recovery procedure. It addresses the recovery of all program and measure costs, the recovery of net loss revenues, and the provision of a performance incentive to encourage PEC to aggressively pursue the implementation of DSM/EE measures and programs. The Stipulation Agreement also addresses the procedure for the filing of the DSM/EE cost recovery rider and the minimum filing requirements associated with such filing. The Stipulation Agreement is entirely consistent with the testimony filed by PEC on January 8, 2009 and the DSM/EE procedure for cost recovery filed by PEC on January 14, 2009. Given that the settlement is entirely consistent with PEC's application for the establishment of procedures for DSM/EE programs filed June 27, 2008 and the testimony filed by PEC on January 8, 2009, the parties do not intend to file any additional prefiled testimony. This Stipulation is being submitted for approval in lieu of the procedure filed by PEC on January 14, 2009. However, the Stipulation is identical to the procedure filed January 14, 2009 with limited exceptions. PEC witness B. Mitchell Williams and Wal-Mart witness Steve Chriss will be presented at the hearing to support this Stipulation and answer any questions the Commission may have.

It should be noted that the Southern Environmental Law Center, Coastal Conservation League, Natural Resources Defense Council, and Southern Alliance for Clean Energy are not parties to this stipulation.

Sincerely,

A handwritten signature in cursive script that reads "Len S. Anthony".

Len S. Anthony  
General Counsel  
Progress Energy Carolinas, Inc.

LSA:mhm

STAREG236  
Progress Energy Service Company, LLC  
P.O. Box 1551  
Raleigh, NC 27602

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2008-251-E

IN RE: )  
Application of Carolina Power and Light )  
Company d/b/a Progress Energy Carolinas, )  
Incorporated for the Establishment of )  
Procedures for DSM/EE Programs

**CERTIFICATE OF SERVICE**

I, Len S. Anthony, hereby certify that the filing of the Joint Stipulation Agreement between Progress Energy Carolinas, Inc., the Office of Regulatory Staff, Wal-Mart Stores East, LP, and Nucor Steel-South Carolina has been served on all parties of record either by email, hand delivery or by depositing said copy in the United States mail, postage prepaid, addressed as follows, this the 23rd day of January, 2009:

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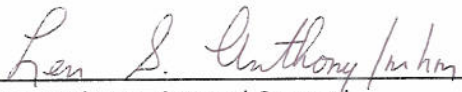
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Len S. Anthony, General Counsel

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2008-251-E**

IN RE:	)	
Application of Carolina Power and Light	)	
Company d/b/a Progress Energy Carolinas,	)	<b>STIPULATION</b>
Incorporated for the Establishment of	)	
Procedures for DSM/EE Programs	)	

Progress Energy Carolinas, Inc. ("PEC" or "the Company"), Wal-Mart Stores East, LP, Nucor Steel – South Carolina, A Division of Nucor Corporation ("Nucor") and the Office of Regulatory Staff ("ORS"), collectively referred to as the Stipulating Parties, through counsel, hereby agree and stipulate as follows:

**1. BACKGROUND**

A. On June 27, 2008, PEC filed its Application for Establishment of Demand Side Management and Energy Efficiency Program Procedures. By Notice of Filing issued July 8, 2008 the Commission established August 8, 2008 as the deadline for the filing of petitions to intervene. On August 7, 2008, PEC filed its affidavits that such Notice had been properly published in the appropriate newspapers serving PEC's assigned service territory in South Carolina. On November 5, 2008, the Commission scheduled this matter for hearing on February 12, 2009.

B. On January 8, 2009, PEC filed the testimony of B. Mitchell Williams supporting the Application and a revision to the proposed Program Procedures. On January 14, 2009, PEC



further revised the proposed Program Procedures to clearly reconcile the June 27, 2008 filing and the January 8, 2009 filing.

**2. COST RECOVERY AND INCENTIVE MECHANISM**

A. PEC's annual DSM/EE rider requested in Docket No. 2008-251-E shall be established by the Commission's order in this proceeding according to the terms and conditions set forth in the Cost Recovery and Incentive Mechanism (Mechanism) attached hereto as Stipulation Exhibit 1. The terms and conditions of the Mechanism are hereby incorporated into this Stipulation.

B. In accordance with S.C. Code Ann. § 58-37-20, the purposes of the Mechanism, among others, are: (1) to allow PEC to recover all reasonable and prudent costs incurred for adopting and implementing new DSM and new EE measures and programs; (2) to establish certain requirements for requests by PEC for Commission approval of DSM and EE programs; and (3) to establish the terms and conditions for the recovery of Net Lost Revenues and for an incentive to reward PEC for adopting and implementing new DSM and EE measures and programs, based on the sharing of savings achieved by those measures and programs, if the Commission deems such recovery and reward appropriate.

C. The Stipulating Parties shall review the terms and conditions of this Mechanism at least every three years and shall submit any proposed changes to the Commission for approval.

D. PEC shall submit quarterly program performance reports to ORS for those programs in effect during the period under review. These program performance reports should include, by program, all components utilized in the calculation of PPI.

### **3. ALLOCATION METHODOLOGIES**

A. For purposes of this Stipulation and the Mechanism, PEC's expenses for approved DSM and EE programs and measures shall be allocated to the North and South Carolina retail jurisdictions and not the wholesale jurisdiction.

B. PEC has developed allocation factors based upon peak demand and energy sales for each state and applied these factors to all expenses.

C. PEC shall use these allocation factors for all program costs, including O&M expenses, in its jurisdictional cost allocations.

### **4. AGREEMENT IN SUPPORT OF SETTLEMENT; NON-WAIVER**

A. The Stipulating Parties agree this Stipulation is reasonable, in the public interest, and in accordance with law and regulatory policy. The Stipulating Parties shall act in good faith and use their best efforts to recommend to the Commission that this Stipulation be accepted and approved. The Stipulating Parties further agree that this Stipulation is in the public interest because it promotes the adoption and implementation of cost-effective new DSM and EE programs by PEC, by appropriately allowing for the recovery of the costs and net lost revenues associated with those programs, and incentives, as contemplated by S.C. Code Ann. § 58-37-20. The Stipulating Parties intend to support the reasonableness of this Stipulation before the Commission and in any appeal from the Commission's adoption or enforcement of this Stipulation.

B. Neither this Stipulation nor any of the terms or conditions shall be admissible in any court or in the Commission except insofar as the Commission is addressing litigation arising out of the implementation of the terms herein or the approval of this Stipulation. This Stipulation shall not be cited as precedent by any of the

Stipulating Parties with regard to any issue in any other proceeding or docket before this Commission or in any court.

C. The provisions of this Stipulation do not reflect any position asserted by any of the Stipulating Parties, but reflect instead the compromise and settlement among the Stipulating Parties as to all of the issues covered hereby. Except as provided in paragraph 4.A., no Stipulating Party waives any right to assert any position in any future proceeding or docket before the Commission or in any court.

D. The Stipulation is the product of negotiation between the Stipulating Parties and contains the complete agreement of the Stipulating Parties. There are no other terms or conditions to which the Stipulating Parties have agreed. No provision of this Stipulation shall be strictly construed in favor or against any Stipulating Party.

#### **5. RECEIPT OF TESTIMONY AND WAIVER OF CROSS-EXAMINATION**

The Stipulating Parties agree that all pre-filed testimony and exhibits of the Stipulating Parties may be received in evidence without objection. Each Stipulating Party waives all right to cross-examine any witness of the Stipulating Parties with respect to such pre-filed testimony and exhibits. If, however, questions are asked by any Commissioner, or if questions are asked or positions taken by any person who is not a Stipulating Party, then any Stipulating Party may respond to such question by presenting testimony or exhibits and cross-examining any witness with respect to such testimony and exhibits, provided such testimony, exhibits, and cross-examination are not inconsistent with this Stipulation.

#### **6. STIPULATION BINDING ONLY IF ACCEPTED IN ITS ENTIRETY**

This Stipulation is the product of negotiation and compromise of a complex set of issues, and no portion of this Stipulation is or will be binding on any of the Stipulating




Parties unless the entire Agreement and Stipulation is accepted by the Commission. If the Commission rejects the Stipulation in whole or in part, the Stipulating Parties reserve the right to withdraw from the Stipulation without penalty within five (5) days of receiving notice of any such decision by providing written notice of withdrawal via electronic mail to all Stipulating Parties in that time period. Should any Stipulating Party exercise its right to withdraw, then the Stipulation shall become null and void, all Stipulating Parties shall request that the Commission provide the opportunity for each Stipulating Party to present evidence and advocate its position in the proceeding, and the Stipulating Parties shall work together in good faith to develop and propose a new procedural schedule to put the Stipulating Parties back in the position they were prior to the Stipulation. Such schedule shall allow a reasonable time for each Stipulating Party to resubmit their testimony and exhibits (including any direct testimony by ORS and rebuttal testimony by the Company) revised to reflect that the entire Agreement and Stipulation was not accepted by the Commission and develop and submit new testimony and exhibits (for those Stipulating Parties that did not originally file testimony), and to conduct discovery regarding such new testimony and exhibits.

## **7. COUNTERPARTS**

This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution by facsimile signature shall be deemed to be, and shall have the same effect as, execution by original signature.

The foregoing is agreed and stipulated to this the 23rd day of January, 2009.

**PROGRESS ENERGY CAROLINAS, INC.**

A handwritten signature in cursive script, reading "Len S. Anthony", is written over a horizontal line.

Len S. Anthony

General Counsel

P. O. Box 1551, PEB 17A4

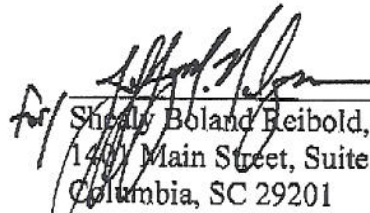
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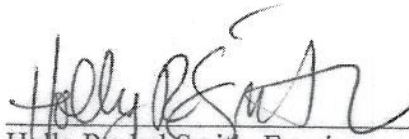
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OFFICE OF REGULATORY STAFF

  
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**WAL-MART STORES EAST, LP**

A handwritten signature in dark ink, appearing to read "Holly Rachel Smith", is written over a horizontal line.

Holly Rachel Smith, Esquire

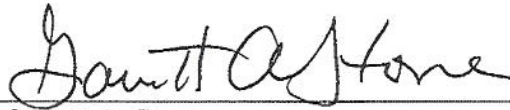
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**NUCOR STEEL -- SOUTH CAROLINA,  
A DIVISION OF NUCOR CORPORATION**

A handwritten signature in cursive script, reading "Garrett A. Stone". The signature is written in black ink and is positioned above a horizontal line.

Garrett A. Stone

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**PROCEDURE AND MECHANISM FOR RECOVERY OF COSTS AND INCENTIVES  
FOR DEMAND-SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAMS**

The purpose of this Procedure and Mechanism is to allow Progress Energy Carolinas, Inc. ("PEC"), to recover all reasonable and prudent costs incurred for adopting and implementing new demand-side management ("DSM") and new energy efficiency ("EE") measures.

Changes in the terms and conditions of this Mechanism shall be applied prospectively only. Programs and measures shall continue to be subject to the terms and conditions that were in effect when they were implemented with respect to the recovery of reasonable and prudent costs and Net Lost Revenues. With respect to the recovery of Program Performance Incentives, approved programs and measures shall continue to be subject to the terms and conditions in effect in the vintage year that the measurement unit was installed.

(a) Definitions.

- (1) "DSM/EE rider" means a charge or rate established by the Commission annually to allow Progress Energy Carolinas, Inc. ("PEC") to recover all reasonable and prudent costs incurred in adopting and implementing new demand-side management and energy efficiency programs, as well as, utility incentives, and net lost revenues.
- (2) "Rate period" means the period during which the DSM/EE rider will be in effect. This time period is July 1 through June 30.
- (3) "Net lost revenues" means the revenue losses, net of marginal costs avoided at the time of the lost kilowatt-hour sale(s), or in the case of purchased power, in the applicable billing period, incurred by PEC as the result of a demand-side management or energy efficiency program. Net lost revenues shall also be net of any increases in revenues resulting from any activity by PEC that causes a customer to increase demand or energy consumption. Program Performance Incentives shall not be considered in the calculation of Net Lost Revenues.
- (4) "Test period" means the period April 1 through March 31.
- (5) "Costs" include all capital costs, including cost of capital and depreciation expenses, administrative costs, implementation costs, incentive payments to program participants, and operating costs. Costs also include the designated amounts dedicated for expenditure on efforts to promote general awareness of and education about EE and DSM activities, as well as research and development activities and the costs for pilot programs. Costs do not include expenditures allocable to the North Carolina retail jurisdiction.



- (6) “Low Income Programs” or “Low Income Measures” are DSM or EE programs or DSM or EE measures provided specifically to low-income customers.
- (7) “Measure” means, with respect to an “EE measure” an equipment, physical, or program change implemented on or after 1 January 2009 by PEC that results in less electrical energy used to perform the same function. “Energy efficiency measure” does not include DSM. “Measure” means, with respect to a “DSM measure” an activity, initiative, or program change, implemented on or after January 1, 2009 undertaken to reduce electrical demand or shift the timing of electricity use from peak to nonpeak demand periods. “DSM measure” includes, but is not limited to, electric system equipment and operating controls that are required for load management, direct load control and interruptible load.
- (8) “Measurement unit” means the basic unit that is used to measure and track the (a) incurred costs, (b) Net Lost Revenues, and (c) net savings for DSM or EE measures installed in each vintage year. A measurement unit may consist of an individual measure or bundles of measures. PEC shall designate the Measurement units for each program.
- (9) “Measurement unit's life” means the number of years that equipment associated with a measurement unit will operate if properly maintained or activities associated with the measurement unit will continue to be cost-effective.
- (11) “Program” means a collection of new DSM or EE measures with similar objectives that have been consolidated for purposes of delivery, administration, and cost recovery, and that is implemented on or after January 1, 2009, including subsequent changes and modifications.
- (12) “Program Performance Incentive” (“PPI”) means a payment to PEC for adopting and implementing new EE or DSM measures based on the sharing of savings achieved by those DSM and EE measures. PPI excludes Net Lost Revenues.
- (13) “Total Resource Cost” (“TRC”) test means a cost-effectiveness test that measures the net costs of a DSM or EE program as a resource option based on the total costs of the program, including both the participants' costs and the utility's costs (excluding incentives paid by the utility to participants). The benefits for the TRC test are avoided supply costs, i.e., the reduction in transmission, distribution, generation and capacity costs valued at marginal cost for the periods when there is a load reduction. The avoided supply costs shall be calculated using net program savings, i.e., savings net of changes in energy use that would have happened in the absence of the program. The costs are the program costs paid by the utility and the participants, plus the increased supply costs for any periods in which load is increased. All equipment costs, installation, operation and maintenance, cost of removal (less salvage value) and the administration costs, no matter who pays for them, are included in this test. Any tax credits are considered a reduction to costs in this test.

- (14) “Utility Cost Test” (“UCT”) means a cost-effectiveness test that measures the net costs of a DSM or EE program as a resource option based on the costs incurred by the utility (including incentive costs paid by the utility to or on behalf of participants) and excluding any net costs incurred by the participant. The benefits for the UCT are the avoided supply costs, i.e., the reduction in transmission, distribution, generation and capacity costs valued at marginal cost for the periods when there is a load reduction. The avoided supply costs shall be calculated using net program savings, i.e., savings net of changes in energy use that would have happened in the absence of the program. The costs for the UCT are the program costs incurred by the utility, the incentives paid to or on behalf of participants, and the increased supply costs for any periods in which load is increased. Utility costs include initial and annual costs, such as the cost of utility equipment, operation and maintenance, installation, program administration, and participant dropout and removal of equipment (less salvage value).
- (15) “Vintage year” means an identified twelve-month period in which a specific DSM or EE measure is installed for an individual participant or group of participants.
- (b) Implementation of Programs.
- (1) In evaluating potential DSM/EE measures and programs for selection and implementation, PEC will first perform a qualitative measure screening to ensure measures are:
- a. Commercially available and sufficiently mature
  - b. Applicable to the PEC service area demographics and climate
  - c. Feasible for a utility DSM/EE program
- (2) PEC will then further screen EE and DSM measures for cost-effectiveness. With the exception of measures included in a Low Income Program, an EE or DSM measure with a TRC test result less than 1.0 will not be considered further, unless the measure can be bundled into an EE or DSM Program to enhance the overall cost-effectiveness of that program.
- (3) With the exception of Low Income Programs, all programs will have a TRC and UCT test result greater than 1.05. PEC shall include information regarding the measures and programs that it evaluated but rejected in its annual Integrated Resource Plan. The information should include: the type of resource (EE or DSM); a description of the program and the target customer segment; the capacity and energy available from the program; projected customer acceptance; and reasons for the program’s rejection.
- (4) If a program fails the economic screening in Paragraph (b)(3) above, PEC will determine if certain measures can be removed from the program to satisfy the criteria established in Paragraph 3.



- (5) PEC will contact each party to its most recent DSM/EE cost recovery proceeding by March 1 of each year and provide them with a list and description of programs and measures either currently being considered or planned for future consideration, and seek suggestions for additional programs and measures for consideration.
  - (6) PEC shall describe the industry-accepted methods to be used to measure, verify, and validate the energy and peak demand savings estimated in its annual cost recovery proceeding and shall provide a schedule for reporting the savings to ORS and the Commission.
- (c) Recovery of Costs.
- (1) Each year the Commission shall conduct a proceeding to establish an annual DSM/EE rider for PEC. The DSM/EE rider shall consist of a reasonable and appropriate estimate of the expenses and Net Lost Revenues expected to be incurred by PEC, during the rate period, for the purpose of adopting and implementing new DSM and EE programs, and the PPI. PEC shall be allowed to defer and amortize all prudent DSM/EE costs over a period of time not to exceed ten (10) years, unless the Commission determines otherwise. PEC shall be allowed to earn a rate of return at the overall weighted average net-of-tax rate of return approved in PEC's most recent general rate case on the unamortized balance of such costs. The rate of return on investment used to determine DSM capital-related costs included in each annual rider will be based on the then-current capital structure, embedded cost of preferred stock, and embedded cost of debt of the Company (net of appropriate income taxes), and the cost of common equity approved in the Company's then most recent general rate case.
  - (2) PEC shall also be allowed to defer and recover through the DSM/EE rider the difference between the reasonable and prudent DSM/EE costs incurred during the test period and the revenues actually realized during such test period under the DSM/EE rider then in effect. The balance in the deferral account, net of deferred income taxes, will accrue a return at the net-of-tax rate of return approved in PEC's most recent general rate proceeding.
  - (3) The DSM/EE rider will be trued up each year to reflect the difference between the reasonable expenses prudently incurred by PEC, net lost revenues incurred and PPI based on realized results during the test period and the revenues that were actually realized during the test period under the DSM/EE rider then in effect. Expenses, net lost revenues and the PPI shall be allocated between PEC's North and South Carolina retail jurisdictions consistent with the system benefits provided by the new DSM and EE programs and, within the South Carolina retail jurisdiction, shall be assigned to rate classes on the following methodology. A DSM and/or EE program's cost shall be allocated to and recovered from the customer class or classes eligible to participate in the program.

- (4) Any over- or under-collection of reasonable and prudently incurred costs shall include an amount of interest, at such rate as the Commission determines to be just and reasonable, not to exceed the maximum statutory rate.
  - (5) The burden of proof as to whether the costs were reasonably and prudently incurred shall be on PEC.
- (d) Net Lost Revenues.
- (1) PEC shall be permitted to recover, through the DSM/EE rider, Net Lost Revenues associated with the implementation of DSM and EE measurement units, subject to the restrictions set out below.
  - (2) Net Lost Revenues resulting from an approved measurement unit installed in a given vintage year shall be recovered through the DSM/EE rider only for the first 36 months after the installation of the measurement unit. Thereafter, recovery of Net Lost Revenues shall end.
  - (3) Programs or measures with the primary purpose of promoting general awareness and education of EE and DSM activities, as well as research and development activities are ineligible for the recovery of Net Lost Revenues. Pilot programs or measures are also ineligible for the recovery of Net Lost Revenues, unless the Commission approves PEC's specific request that a pilot program or measure be eligible for the recovery of Net Lost Revenues.
  - (4) Recovery of Net Lost Revenues for measurement units installed in a prior vintage year shall cease upon the implementation of new rates approved by the Commission in a general rate case or comparable proceeding to the extent the rates set in the general rate case or comparable proceeding are set to explicitly or implicitly recover those Net Lost Revenues.
  - (5) Overall Net Lost Revenues as measured by any vintage year or the two succeeding vintage years shall be reduced by any increases in revenues during the same periods resulting from any activity by PEC's public utility operations that cause a customer to increase demand or energy consumption.
  - (6) Net Lost Revenues shall be trued-up as follows:
    - a. Net Lost Revenues shall be trued-up in the first DSM/EE cost recovery proceeding following the completion and review of a program's or measure's impact evaluation. The true-up shall be based on approved measurement units and shall cover all vintage years, as provided in Paragraphs (d)(2) and (d)(4) above, from the previous measurement unit's impact evaluation or program or measure approval, whichever is more recent.
    - b. The true-up factor shall be calculated based on the difference between projected and actual Net Lost Revenues for each measurement unit and



vintage years under consideration, accounting for any differences derived from the completed and reviewed measurement unit evaluation including: (1) the projected and actual number of installations per measurement unit, (2) the projected and actual net kilowatt-hour ("kWh") and kilowatt ("kW") savings per installation, (3) the projected and actual gross lost revenues per kWh and kW saved, and (4) the projected and actual deductions from gross lost revenues per kWh and kW saved.

- c. The combined total of all true-up factors calculated in a given year's cost recovery proceeding shall be incorporated into the DSM/EE rider.

(e) Program Performance Incentive ("PPI").

- (1) PEC shall be allowed to collect a PPI for each DSM or EE program in effect during a given rate period, subject to the restrictions set out below.
- (2) Programs or measures with the primary purpose of promoting general awareness of and education about EE and DSM activities, as well as research and development activities, are ineligible for PPI. Pilot programs or measures are also ineligible for PPI, unless the Commission approves PEC's specific request that a pilot program or measure be eligible for PPI.
- (3) With the exception of Low Income Programs or Low Income Measures, for any vintage year in which a program's or measure's TRC test result is less than 1.00 at the time of the cost recovery proceeding, there shall be a rebuttable presumption that the PPI for that program or measure for the applicable vintage year is zero. PEC shall be allowed an opportunity to rebut the presumption that PPI should be zero by showing the impact of weather, decline in avoided costs, uncontrolled market forces, etc.. If PEC elects to continue offering a DSM/EE program or measure that has a TRC test result less than 1.00 in the previous vintage year, unless the ORS has previously agreed such program or measure should continue to be offered without modification, there shall also be a rebuttable presumption that the costs associated with such program or measure will not earn a return in subsequent years of the program,
- (4) The PPI shall be based on the net savings of each program or measure as calculated using the UCT. The total of the PPIs for all programs or measures shall be added to PEC's DSM/EE cost recovery riders, as appropriate.
- (5) In its annual cost recovery filing, PEC shall indicate, for each program or measure for which it desires a PPI, the annual projected and actual utility costs, participant costs, number of measurement units installed, per kW and kWh impacts for each measurement unit, and per kW and kWh avoided costs for each measurement unit, related to the applicable vintage year installations that it requests the Commission to approve. Upon its review, the

Commission's findings shall be based on PEC's annual filing for each program or measure for which an estimated or trued-up PPI is approved.

- (6) The amount of the PPI initially to be recovered for a given measurement unit and vintage year shall be equal to 8% for DSM programs and measures and 13% for EE programs and measures, multiplied by the estimated net savings. Estimated net savings shall be calculated by multiplying the number of measurement units projected to be installed specific to a program or measure in a vintage year by the most current estimates of the annual per installation kW and kWh savings over the measurement unit's life and by the most current estimates of the annual kW and kWh avoided costs, subtracting the estimated utility costs over the measurement unit's life related to the projected installations in that vintage year and discounting the result to determine a net present value. In approving the initial PPI, the Commission shall assume that projections will be achieved.
- (7) The initial PPI shall be converted into a stream of ten (10) levelized annual payments, accounting for and incorporating PEC's overall weighted average net-of-tax rate of return approved in PEC's most recent general rate case as the appropriate discount rate.
- (8) The per kW avoided capacity costs and the per kWh avoided energy costs used to calculate net savings for a vintage year shall be determined annually by PEC. PEC's assumptions used in the determination of these costs are subject to the Office of Regulatory Staff's review and acceptance at the time PEC files its petition for annual cost recovery pursuant to this Mechanism. Unless PEC and the Office of Regulatory Staff agree otherwise, PEC shall not be allowed to update its avoided capacity costs and avoided energy costs after filing its petition for its annual cost recovery proceeding pursuant to this Mechanism and prior to the Commission's order establishing the rider for that rate period for purposes of calculating the PPI.
- (9) When PEC files for its annual DSM/EE cost recovery, it shall report all interim measurement and verification data, even if that data is not final, to assist the Commission and the Office of Regulatory Staff in their review and monitoring of the impacts of the DSM and EE measures.
- (10) PEC bears the burden of proving all savings and costs included in calculating the PPI. PEC shall be responsible for the measurement and verification of energy and peak demand savings consistently with its measurement and verification plan described in Paragraph (b)(6).
- (11) The PPI shall be trued-up as follows:
  - a. The PPI shall be trued-up in the first cost recovery proceeding following the completion and review of a program's or measure's impact evaluation. The true-up shall include all measurement units specific to the program or measure and shall cover all vintage years since the previous measurement



unit's impact evaluation or program or measure approval, whichever is more recent.

- b. The amount of the PPI ultimately to be recovered for a given program or measure and vintage year shall be based on the actual net savings derived from all measurement units specific to the program or measure. Actual net savings shall be calculated by multiplying the number of actual installed measurement units in a vintage year by the verified annual per installation kW and kWh savings over the measurement unit's life and by the annual per kW and kWh avoided costs used in calculating the initial PPI, subtracting the actual vintage year measurement unit costs over the measurement unit's life related to installations in that vintage year and discounting the result to present value.
- (12) The combined total of all components of the estimated and trued up performance incentive shall be incorporated into the DSM/EE rider, as appropriate.
- (f) Special Provisions for Industrial or Large Commercial Customers.
- (1) Commercial customers with annual consumption of 1,000,000 kWh or greater in the billing months of the prior calendar year and all industrial customers may elect not to participate in PEC's demand-side management and energy efficiency programs by notifying PEC of the customer's election in writing. Any customer that elects this option will be exempt from the annual rider. For purposes of application of this option, a customer is defined to be a metered account billed under a single application of a Company rate tariff. For commercial accounts, once one account meets the opt-out eligibility requirement, all other accounts billed to the same entity with lesser annual usage located on the same or contiguous properties are also eligible to opt-out of the DSM/EE Rider and DSM/EE EMF. Since these rates are included in the rate tariff charges, customers electing this option shall receive a DSM/EE Credit on their monthly bill statement.
  - (2) At the time PEC files its application for the annual rider, it shall provide the Commission with a list of those industrial or commercial customers that have opted out of participation in PEC's new demand-side management or energy efficiency program.
  - (3) Any customer that opts out but subsequently elects to participate in a demand-side management or energy efficiency program loses the right to be exempt from payment of the rider for five years or the life of the program, whichever is longer. For the purposes of this subsection, "life of the program" means either the capitalization period over which PEC will amortize or depreciate the costs associated with the program or the anticipated period for the program to reach maximum penetration. Within 30 days of the customer's election, PEC shall notify ORS and the Commission of an industrial or commercial customer that

elects to participate in a DSM/EE program after having initially notified PEC that it declined to participate.

(g) Annual Proceeding.

- (1) The Commission shall schedule an annual rider hearing to review the costs and net lost revenues incurred by PEC, and PPI earned in the adoption and implementation of demand-side management and energy efficiency programs during the test period, the revenues realized during the test period through the operation of the annual rider, the costs and net lost revenues expected to be incurred, and PPI expected to be earned, during the rate period and shall establish a DSM/EE rider designed to recover during the succeeding twelve months the DSM/EE costs determined by the Commission to be appropriate for that period, adjusted for the over-recovery or under-recovery incurred during the test period.
- (2) PEC shall file its application for recovery of costs and incentives on or before May 1 of each year.
- (3) The DSM/EE rider will remain in effect for a fixed 12-month period following establishment and will continue as a rider to rates established in any intervening general rate case proceeding.

(h) Filing Requirements and Procedure.

- (1) PEC shall submit to ORS and the Commission all of the following information and data in its application:
  - (i) Projected South Carolina retail monthly kWh sales for the rate period.
  - (ii) For each DSM/EE program for which cost recovery is requested:
    - a. total expenses expected to be incurred during the rate period in the aggregate and broken down by type of expenditure, per appropriate capacity, energy and program unit metric and the proposed jurisdictional allocation factors;
    - b. total costs that PEC expects to incur during the rate period as a direct result of the program in the aggregate and broken down by type of cost, per appropriate capacity, energy and program unit metric, and the proposed jurisdictional allocation factors, as well as any changes in the estimated future amounts since last filed with the Commission;
    - c. a description of the measurement and verification activities to be conducted during the rate period, including their estimated costs;



- d. total expected summer and winter peak demand reduction per appropriate capacity, energy, and program unit metric and in the aggregate;
- e. total expected energy reduction in the aggregate and per appropriate capacity, energy and program unit metric;
- f. total expenses for the test period in the aggregate and broken down by type of expenditure, per appropriate capacity, energy and program unit metric and the proposed jurisdictional allocation factors;
- g. total costs that PEC incurred for the test period as a direct result of the program in the aggregate and broken down by type of cost, per appropriate capacity, energy and program unit metric, and the proposed jurisdictional allocation factors, as well as any changes in the estimated future amounts since last filed with the Commission;
- h. a description of, the results of, and the costs of all measurement and verification activities conducted in the test period;
- i. total summer and winter peak demand reduction per appropriate capacity, energy, and program unit metric and in the aggregate, as well as any changes in estimated future amounts;
- j. total energy reduction in the aggregate and per appropriate capacity, energy and program unit metric, as well as any changes in the estimated future amounts since last filed with the Commission;
- k. a discussion of the findings and the results of the program or programs;
- l. evaluations of event-based programs including the date, weather conditions, event trigger, number of customers notified and number of customers enrolled;
- m. a comparison of impact estimates presented in the program application from the previous year, those used in reporting for previous program years, and an explanation of significant differences in the impacts reported and those previously found or used;
- n. a detailed explanation of the calculation of the PPI, the actual calculation of the proposed PPI, and the proposed method of providing for their recovery and true-up through the annual rider;

- o. actual revenues produced by the DSM/EE rider during the test period and for all available months immediately preceding the rate period;
  - p. the requested DSM/EE rider and the basis for the rider; and
  - q. projected South Carolina retail monthly kWh sales for the rate period for all industrial and large commercial accounts, in the aggregate, that are not assessed the rider charges as provided in this rule.
- (2) PEC will file the information described in this procedure, accompanied by workpapers and direct testimony and exhibits of expert witnesses supporting the information filed in this proceeding, and the rider proposed by PEC.
- (3) Interested persons must file a petition to intervene at least 15 days prior to the date of the hearing. Petitions to intervene filed less than 15 days prior to the date of the hearing may be allowed in the discretion of the Commission for good cause shown.
- (4) The Office of Regulatory Staff and other intervenors must file direct testimony and exhibits of expert witnesses at least 15 days prior to the hearing date. If a petition to intervene is filed less than 15 days prior to the hearing date, it shall be accompanied by any direct testimony and exhibits of expert witnesses that the intervenor intends to offer at the hearing. This provision in no way limits the ability of a party or parties to request testimony and hearing dates be adjusted as needed to allow sufficient review of filings in the annual cost recovery proceeding docket.
- (5) PEC may file rebuttal testimony and exhibits of expert witnesses no later than 5 days prior to the hearing date.